

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1760 of 2015

Dharani
W/o.Munusamy

... Petitioner

-vs-

1.The State of Tamil Nadu,
represented by its
Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Chennai City Police,
Commissioner Office,
Egmore, Chennai - 600 008.

3.The Inspector of Police,
M-4 Redhills Police Station,
Chennai.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent against the detenu Viji @ Vijaya Kumar S/o.Munusamy, aged about 23 years, in Memo No.502/BCDFGISSSV/2015 dated 30.06.2015, on the file of the second respondent herein, quash the same and consequently, to direct the respondents to produce the detenu, who is at present confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents : Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the mother of the detenu viz., Viji @ Vijaya Kumar S/o.Munusamy, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in Memo No.502/BCDFGISSSV/2015 dated 30.06.2015. Such order is under challenge herein.

2. The detenu came to adverse notice in the following cases:

Sl.No	Police Station and Crime No.	Section of law
1	H-8 Thiruvottriyur Police Station, Crime No.166 of 2011	147, 148, 341, 323, 324, 307, 506(ii) @ 147, 148, 341, 323, 324, 302, 506(ii) IPC
2	H-8 Thiruvottriyur Police Station, Crime No.369 of 2013	341, 294(b), 384, 506(ii) IPC
3	H-8 Thiruvottriyur Police Station, Crime No.121 of 2015	195(A), 323, 506(ii) IPC
4	M-3 Puzhal Police Station, Crime No.1423 of 2015	341, 294(b), 324, 384, 506(ii) IPC

The ground case has been registered against the detenu in Crime No.1447 of 2015 on the file of M-4 Redhills Police Station for offences u/s.341, 294(b), 336, 427, 397, 307 r/w 506(ii) IPC.

3. Amidst several grounds raised, learned counsel for the petitioner submits that a reading of paragraph No.4 of the grounds of detention informs that while the detaining authority has considered the possibility of the detenu being released on bail in the ground case in Crime No.1447 of 2015 on the file of M-4 Redhills Police Station, there has been no consideration regards the possibility or otherwise of the detenu being released on bail in respect of fourth adverse case viz., Crime No.1423 of 2015 on the file of M-3 Puzhal Police Station registered for offences under sections 341, 294 (b), 324, 384, 506(ii) IPC. Learned counsel submits that non-consideration of the said aspect reflects the non-application of mind on the part of the detaining authority.

4. We have heard learned Additional Public Prosecutor on the above submissions.

5. We find that the order of detention does suffer from non application of mind and for the reasons put forth by the learned counsel for the petitioner. The order under challenge would have to fall.

This Habeas Corpus Petition is allowed. The detention order passed by second respondent against the detenu Viji @ Vijaya Kumar S/o.Munusamy, made in Memo No.502/BCDFGISSSV/2015 dated 30.06.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

sd/
ASSISTANT REGISTRAR (J)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

gm

To

- 1.The Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner of Police,
Chennai City Police,
Commissioner Office,
Egmore, Chennai - 600 008.
- 3.The Inspector of Police,
M-4 Redhills Police Station,
Chennai.
- 4.The Superintendent of Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government
Public (law & order),
Fort St.George, Chennai 600 009.
- 6.The Public Prosecutor
High Court, Chennai.

H.C.P.No.1760 of 2015

CO-GJ

JD 30/10/2015

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